

property at \$115,000. The second appraisal was a hypothetical on the remaining 78 acres with a value estimate of \$281,000.

A.5. The Board alleges that Respondent's appraisal reports for the Subject Property failed to meet the following requirements of applicable USPAP Standards (2006):

a. Standards Rule 1-1(a):

i. The report for the vacant land was inconsistent—it stated that the current use was irrigated farm land, appraised the vacant land as an irrigated farm, but indicated highest and best use was its existing use as a single family homestead. If the highest and best use were the existing use, an irrigated farm, with subdivision potential, then the appraisal was outside the scope of Respondent's CRA license and competence. If there were subdivision potential, as indicated in the vacant land grid and discussion, then the appraisal was outside the scope of Respondent's license and competence as a residential appraiser.

ii. The recent sale of the 80-acre property at \$250,000 was not analyzed, which reduced the credibility of the reports.

iii. The vacant land report should have been independent of the residential report and should not have referred to an existing use as a single family homesite. The vacant land report did not discuss the market, absorption, time trends, development potential, improvements, and irrigation. The assumption that the vacant land could be subdivided should have been verified with local authorities and reported. Zoning and development potential were not discussed.

iv. The report for the house inaccurately stated "no sales history"; it assumed a subdivision without discussing zoning; bedroom adjustments were not made; comments were canned and not specific; the plat included 80 acres, not the 2 acres for the house; and there was insufficient discussion of improvements, repairs and upgrades.

b. Standards Rule 1-1(b): The report's lack of analyses and inconsistent (and thus confusing) comments as to the highest and best use of the 78 acres of vacant farm land were substantial errors of omission that affected the appraisal.

c. Standards Rule 1-1(c): The reports were careless because of errors and lack of analyses. There should have been more thorough analyses of the highest and best use, market conditions, trends, and neighborhood. The recent sale of the subject substantially below the sum of the two appraised values should have been discussed in detail. There were no market statistics on page 2 of the residential form in the area of the form for "Market conditions in the subject neighborhood." The credibility of the appraisals was reduced.

d. Standards Rule 1-1(h): The reports did not determine the scope of work necessary to produce a credible report; *i.e.*, highest and best use analyses, zoning potential, market condition or adequate support for either value.

e. Standards Rule 1-3(a): The reports had no analyses of existing land use regulations, potential for a split of the subject property, economic demand for the land or highest and best use analyses.

f. Standards Rule 1-5(a): The reports did not analyze the recent sale of the 80-acre property. Page 2 of the residential report briefly stated: "Seller must not have been informed about current market conditions because this price was considerably below market value at that time." The report did not support this comment. The reports' two estimated values, \$115,000 for the house on 2 acres and \$281,000 for the 78 acres, showed that the buyer had paid more than 36% less than the reports' estimated market value in the previous month, without supporting that opinion.

g. Standards Rule 2-1(a) and (b): The reports did not contain adequate information to clearly and accurately set forth their appraisals in a manner that was not

misleading, and the reports did not provide sufficient information to enable the intended users to understand the reports.

h. Standards Rule 2-2(b)(vii): The reports lacked sufficient research and analyses; work that was *not* performed would have enhanced understanding of the reports.

i. Ethics Rule, Conduct, and Competency Rule: The reports' lack of support for the values, lack of discussion of the sales history of the subject property, lack of discussion of the real estate market, lack of discussion of existing zoning, misleading scope of appraisal and misleading highest and best use analyses violated the Conduct rule. In addition, Respondent performed an appraisal outside the scope of his residential license when he referred to "agricultural land," "potential subdivision land" and "irrigated farm land" within the report. The lack of knowledge should have been disclosed, and necessary steps to complete the assignment competently should have been performed.

A.6. The Board alleges that the above conduct is grounds upon which the Board may discipline Respondent's license under the laws and rules governing the practice of real estate appraising, specifically Idaho Code § 54-4107(e) and IDAPA 24.18.01.700.

B. Waiver of Procedural Rights

I, Allen E. Burris, by affixing my signature hereto, acknowledge that:

B.1. I have read and understand the allegations pending before the Board, as stated in Section A.. I disagree with many of those allegations because:

a. I carefully reviewed the standards before engaging in any analysis to assure myself that I would not exceed the scope of my license. Based on my research, I do not believe I exceeded the scope of my license. If I did happen to exceed the scope of my license, I did so unintentionally.

b. I only performed a summary appraisal as opposed to a self-contained appraisal. I believe my analysis was sufficient for a summary appraisal, and I deny that I

violated USPAP.

c. I also disagree with several other alleged violations, including, among other things, the allegation that there was “a lack of discussion of zoning,” that I “inaccurately stated ‘no sales history,’” and that “bedroom adjustments were not made.”

B.2. Although I disagree with many of the allegations in Section A, I wish to expeditiously resolve this matter and cooperate with the Board by entering this Stipulation. In doing so, I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board’s orders; the right to judicial review of the Board’s orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraising in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

C. Stipulated Discipline

C.1. Respondent shall pay to the Board an administrative fine in the amount of One Thousand and No/100 Dollars (\$1000.00) within sixty (60) days of the entry of the Board’s Order.

C.2. Respondent shall pay investigative costs and attorney fees in the amount of One Thousand Five Hundred and No/100 Dollars (\$1,500.00) within sixty (60) days of the entry of the Board’s Order.

C.3. Within nine (9) months of the date of entry of the Board’s Order, Respondent shall successfully complete one, 15-classroom-hour¹ continuing education

¹ Classroom hours as used in this Stipulation and Consent Order and in the Rules of the Real Estate Appraiser’s Board, IDAPA 24.18.01.000 *et seq.*, includes instruction in which:

(a) the appraiser taking the class and the instructor are physically present in the same location at the same time (traditional classroom hours), or

(b) the appraiser taking the class and the instructor are connected at the same time through

course from a Board-approved provider: either (a) a National USPAP Course or (b) a course on Residential Market Analysis—Highest and Best Use. Respondent shall submit proof of attendance to the Board within 30 days of attendance of the continuing education course. These course's classroom hours shall not count towards the total number of continuing education hours that Respondent must obtain to maintain his license under Board Rule 401.02. a – c. The National USPAP Course may, however, be used to satisfy the Board's biennial, seven (7) hour USPAP update course requirement to the extent allowed by Board Rule 401.02.d.

C.4. Respondent's License No. CRA-152 shall be placed on probation for a period of one (1) year from the date of entry of the Board's Order. The conditions of probation are as follows:

a. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of real estate appraising in the State of Idaho.

b. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change. Periods of time spent outside Idaho will not excuse compliance with the terms of this Stipulation.

c. Respondent shall fully cooperate with the Board and its agents, and shall make all relevant files, records, correspondence or other documents available immediately upon the demand of any member of the Board and its agents.

C.5. All costs associated with compliance with the terms of this Stipulation are the sole responsibility of Respondent.

C.6. The violation of any of the terms of this Stipulation by Respondent may

videoconferencing or a similar technology, the appraiser taking the class is present in the same location with other appraisers taking the class, and the facilities are set up for interactive two-way communication between the instructor and the appraisers taking the class that allows questions to be posed by appraisers taking the class and answered by the instructor during the class (interactive distance learning classroom hours).

Classroom hours do not include on-line courses in which the appraiser taking the class is at a remote location from the other appraisers taking the class or in which the appraiser taking the class is not able to pose questions to the instructor and receive answers in real time.

warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D. Presentation of Stipulation to Board

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

E. Violation of Stipulation and Consent Order

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within fourteen (14) days after the notice of the hearing and charges is served, Respondent may submit a response to the

allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

DATED this 17 day of JUNE, 20 09.

Allen E. Burris

Allen E. Burris
Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 23 day of JUNE, 2009.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By Brian C. Wonderlich
Brian C. Wonderlich
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-4106(2)(h), the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 19th day of October 2009. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF REAL ESTATE APPRAISERS

By Rick Bachmeier
Rick Bachmeier, Chair

Patti Lentz

CERTIFICATE OF SERVICE

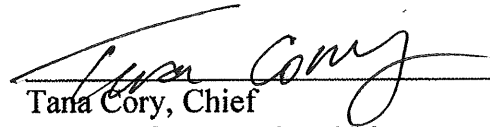
I HEREBY CERTIFY that on this 19th day of October, 2009, I caused to be served a true and correct copy of the foregoing by the following method to:

Allen E. Burris
740 E. 400 S.
Smithfield, UT 84335

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Michael S. Gilmore
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail


Tana Cory, Chief
Bureau of Occupational Licenses